

BOARD OF APPEALS CASE NO. 5230

*

BEFORE THE

APPLICANTS: Corey & Barbara Reiss

*

ZONING HEARING EXAMINER

**REQUEST: Variances for an existing dwelling,
proposed addition and deck within the rear yard
setback; 1892 Deep Run Road, Whiteford**

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 2/20/02 & 2/27/02

HEARING DATE: April 8, 2002

*

Record: 2/22/02 & 3/1/02

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Corey and Barbara Reiss, are requesting a variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to allow an existing house and a new addition within the required fifty (50) foot rear yard setback (forty-two [42] feet proposed); and a variance, pursuant to Section 267-23C(1)(a)(6), to allow a deck within the required thirty-eight (38) foot rear yard setback (thirty-two [32] feet proposed) in an AG/Agricultural District.

The subject parcel is located at 1892 Deep Run Road, Whiteford, Maryland 21160 and is more particularly identified on Tax Map 12, Grid 1C, Parcel 33. The subject parcel consists of 1.0± acres, is zoned AG/Agricultural and is entirely within the Fifth Election District.

Mrs. Barbara Reiss appeared and testified that her lot is a panhandle lot that is irregularly shaped. It fronts on Deep Run Road and backs to Old Boyle Road. Except for areas of improvement the parcel is densely forested. There is an existing stream that crosses the property parallel with Deep Run Road. The original home was actually a utility building converted to living quarters in 1973 by previous owners. Later in 1979, those same owners enlarged the house pursuant to a valid permit. The Applicant did not know that the existing house encroached into setbacks until application was made for the current addition and deck. The Applicants want to add a 20 foot by 10 foot addition with a 5 foot wrap-around porch to the existing home. The addition will be on the side of the house that backs up to an abandoned roadbed and large area of dense woodland.

Case No. 5230 – Corey & Barbara Reiss

The Applicant indicated that the rear yard is exceptionally narrow and there is no other location for the addition and porch. Moreover it would be impossible to comply with the setback requirements without tearing the entire house down and rebuilding. The Applicant indicated this would impose a severe hardship on her and her family. Because of the placement of the house on the lot and location of the stream, the actual building envelope of this lot is less than ¼ acre, severely limiting any available location for additions. Since the encroachments have existed since at least 1979, the Applicant stated no adverse impacts have or would result from both the continued setback encroachment by the house and the proposed encroachment by the small addition.

Mr. Bernard L. Meyer appeared on behalf of the Applicant and explained that the property was severely limited in buildable area. The addition is to the northeast side of the parcel and there is a stream to the east and septic to the southeast. The abandoned roadbed is to the west. The remainder of the property is densely forested. According to the witness, the structure planned is of masonry foundation with siding and roofing to match existing house and a wooden deck. The witness felt that because of the limitations constraining the property that it was unique and that the structure proposed would have no adverse impacts.

The Department of Planning and Zoning concluded that the parcel had topographically unique features and that these features included a stream on the property, irregular shape, panhandle configuration and frontage on two roadbeds. Further, the Department concluded that these features justified the variances requested by the Applicant and recommended approval.

There were no persons who appeared in opposition to the request.

Case No. 5230 – Corey & Barbara Reiss

CONCLUSION:

The Applicants, Corey and Barbara Reiss, are requesting a variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to allow an existing house and a new addition within the required fifty (50) foot rear yard setback (forty-two [42] feet proposed); and a variance, pursuant to Section 267-23C(1)(a)(6), to allow a deck within the required thirty-eight (38) foot rear yard setback (thirty-two [32] feet proposed) in an AG/Agricultural District.

Harford County Code Section 267-23C(1)(a)(6) provides:

“Encroachment.

- (a) The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:

[1] Awnings, canopies, cornices, eaves or other architectural features: three (3) feet.

[6] Unenclosed patios and decks: up to, but not to exceed, twenty-five percent (25%) of the side or rear yard requirement for the district. No accessory structure shall be located within any recorded easement area.”

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

Case No. 5230 – Corey & Barbara Reiss

The Hearing Examiner agrees that the subject property has unique topographical features that limit and constrain improvements on this parcel. Proposed is a modest addition to the Applicant's home. Based on the lot size, house location and constraints, the proposed location is the only practical one for the addition proposed. The house backs up to an area densely wooded and the nearest residence is more than 250 feet away and is separated from the subject parcel by an area of dense forest. No adverse impacts will result from the addition or continued encroachment by the existing home.

Based on the foregoing reasons, the Hearing Examiner recommends approval of the Applicants' requests subject to the following conditions:

1. The Applicants obtain any and all necessary permits and inspections.
2. That the proposed structure not exceed the dimensions submitted to the Hearing Examiner as part of this Application.

Date: APRIL 19, 2002

William F. Casey
Zoning Hearing Examiner